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Motion Pictures.

Report

of the

Special Committee

of

THE NEW YORK STATE CONFERENCE OF MAYORS

Appointed to make an Investigation
into the Matter of the Regulation
of Motion Pictures.

Report Submitted to, and adopted
by
The New York State Conference of Mayors
at the Semi-annual Meeting held in
Albany, N. Y., February 24, 1920.

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THE COMMITTEE

Hon. Palmer Canfield, Jr., *Chairman;* Mayor of Kingston and Representative of Cities of the Third Class.

Hon. Walter W. Nicholson, Commissioner of Public Safety of Syracuse, and Representative of Cities of the Second Class.

Hon. R. Andrew Hamilton, Commissioner of Public Safety of Rochester, and Representative of Cities of the First Class.

The Rev. Dr. Charles O. Judkins, pastor of the Grace Methodist Episcopal Church, of Glens Falls, N. Y., and Representative of the Churches.

Mrs. Howard Gans, of New York, Representative of the Federation for Child Study.

Mr. Rex Beach, of Ardsley-on-the-Hudson, Representative of the Authors League.

Mrs. N. B. Spaulding, of Schenectady, Representative of the Housewives' League.

Mr. James P. Holland, of New York, President of the New York State Federation of Labor, Representative of Labor.

Miss Mary Gray Peck, of Geneva, Representative of the Free Lance Women Writers.

Dr. Everett D. Martin, of New York, Representative of the National Board of Review of Motion Pictures.

Mr. Albert E. Smith, President of the Vitagraph Company of America, Representative of the Motion Picture Producers.

Mr. Gabriel L. Hess, of the Goldwyn Distributing Corporation, Representative of the Motion Picture Distributors.

Mr. Walter Hayes, of Buffalo, Vice-President of the Strand Theatre Interests, Representative of the Motion Picture Exhibitors.

Secretary—Mr. William P. Capes, *Secretary of New York State Conference of Mayors and Director of New York State Bureau of Municipal Information, 25 Washington Avenue, Albany, N. Y.*

REPORT OF COMMITTEE

To the New York State Conference of Mayors:

The committee you appointed last year to consider the regulation of motion pictures has thoroughly investigated the subject.

On January 15th the committee met at the Waldorf-Astoria in New York City, and its work was outlined by Hon. Walter W. Stone of Syracuse, the president of the Conference. That afternoon various studios were investigated and gone over thoroughly in order that the producing departments of the work might be understood.

On January 16th the art of exhibiting the pictures was investigated, and a reviewing committee of the National Board of Review, as it passed upon the pictures, was thoroughly observed in action, that its working be understood. In the afternoon the full committee met at the Waldorf-Astoria for general discussion and the perfection of organization, etc. At this meeting the following sub-committees were appointed to bring reports upon the following:

Local Regulation—Dr. E. D. Martin, chairman; Mrs. Howard Gans and Walter Hayes.

Existing Laws—Gabriel L. Hess, chairman; Miss Mary Gray Peck and Albert E. Smith.

National Board of Review—Walter W. Nicholson, chairman; Mrs. N. B. Spaulding and Rev. Dr. Charles O. Judkins.

State Censorship—Rex Beach, chairman; James P. Holland and R. Andrew Hamilton.

On Monday, February 2nd, the sub-committees met in Albany and submitted in their reports the results of their investigations. These reports were read and debated at length, and a special committee consisting of Mayor Palmer Canfield, Jr., of Kingston, N. Y., Commissioner Walter W. Nicholson, and Rev. C. O. Judkins was appointed to draw up the general report for submission to the entire committee preparatory to making the final report to the Mayors' Conference..

GENERAL STATEMENT

In considering the regulation of motion pictures, it is necessary to get a clear conception of what motion pictures are, for they can be rightly regulated only when they are rightly conceived. Motion pictures are not primarily a business, although the production and exhibition of motion pictures has become a great business. To attempt to regulate motion pictures merely as a business would go very wide of the mark of the true regulation of motion pictures.

Motion pictures are not primarily an educational movement. They may be educational and doubtless will be used largely as a means of education, but to attempt to regulate them on the basis of their educational value would be a false move.

Nor are motion pictures the same as books, papers or magazines, and while very often arguments are based on similes between the motion pictures and the book, the paper or the magazine, the attempt to regulate the motion picture as you would a book, a paper or a magazine, is enept.

Motion pictures are primarily an art and the logical regulation of motion pictures is such regulation as would be applied to art, and not such as would be applied to journalism, or literature, or business. The committee feels that this fundamental principle should be understood for on its consideration is based the profound conviction that the motion picture should never be subjected to legalized censorship, such as state censorship; but simply because it is primarily an art, it should be regulated by the review of a body of people who so love and appreciate art as to be anxious for its perfection to the point of voluntary service in review to protect and elevate the art to the highest possible state of efficiency in order that the effect upon the public may be such as a great art should produce.

Your committee is convinced that the National Board of Review is such a body of people; and that while it is possible, yet in all probability no politically appointed board of state censors would be such a body of people. Therefore the committee believes that it would be a sheer calamity to supplant the National Board of Review and the results of its efforts with a state board of censors, and your committee begs that such local legislation as shall assist the National Board of Review to carry its work to perfection be urged upon the cities by the State Mayor's Conference, in order that the people realizing the peculiar artistic efficiency of the National Board of Review may be content with their work and delivered from any reasons for desiring the setting up of a state board of censorship. These conclusions are based on the following summaries of the reports of special committees.

REPORT OF THE INVESTIGATION OF SUB-COMMITTEES

EXISTING LAWS

New York has a regulatory provision, known as Section 1140-A of the Penal Law. It was added to our statutes by Chapter 279 of the Laws of 1909, and became effective September 1, 1909. It reads as follows:

> "Any person who as owner, manager, director, or agent or in any other capacity prepared, advertises, gives, presents, or participates in any obscene, indecent, immoral or impure drama, play, exhibition, show or entertainment, which would tend to the corruption of the morals of youth or others, and every person aiding or abbetting such act, and every owner, or lessee or manager of any garden, building, room, place or structure, who leases or lets the same or permits the same to be used for the purposes of any such drama, play, exhibition or show or entertainment, knowingly, or who assents to the use of the same for any such purpose shall be guilty of a misdemeanor."

We wish to call to the attention of the committee that this law was in force and effect when the late Mayor William J. Gaynor in 1912 wrote his veto message to an ordinance which attempted to set up a censorship of moving pictures in New York City. After declaring that censorships which interfered with freedom of speech, of the press and of opinion, had been abolished in all free countries throughout the world, he asserted that our present laws were ample to prevent the publication of any libelous, obscene, immoral or impure picture or reading matter. "If anyone does this he commits a criminal offense and may be punished therefor," he said.

We have the evidence of this great jurist and great lover of freedom that this law is sufficient to prevent the exhibition of indecent and obscene pictures. Despite this evidence there are those who say the law cannot be enforced. It should be remembered that no penal law is self-enforcing, but this one can be and has been. When the "White Slave" picture first appeared, Justice Davis was asked to grant an injunction, restraining the production of one of these pictures. He viewed the picture and denied the application for an injunction. The exhibitor was tried, convicted and sentenced under this law.

It will be noted that a person violating this law is guilty of a misdemeanor. Any person can make a complaint to a magistrate, and the person charged with the offense can be brought into court on a summons or a warrant. It is not necessary to have the case presented to a Grand Jury,

although that can be done, but can be disposed of by the magistrate. This committee agrees with the late Justice Gaynor that the law is sufficient to punish any person presenting an indecent, obscene, or immoral picture which would tend to the corruption of the morals of youth.

Your sub-committee has made an examination of the laws of other states for the purpose of determining if the one in New York could be improved by amendment. It finds that in Massachusetts, Illinois and other states where laws have been passed they are in the language of the New York statute, which covers dramatic and all other forms of entertainments as well as moving picture. The only state in which motion pictures are specifically mentioned is Vermont. Section 7023 of the General Laws of that state read:

> "A person who exhibits to the public moving pictures which are obsence or immoral, or presents an obscene or immoral show, vaudeville or entertainment, shall be imprisoned not more than three months or fined not more than two hundred dollars or both."

We believe the New York law is stronger than that of Vermont. A conviction as a misdemeanor under the New York law would carry with it an imprisonment of not more than one year, or a fine of not more than five hundred dollars, or both.

For the reasons stated, this sub-committee does not recommend any change in the present law, but reports that in its opinion it is sufficient to prosecute any person presenting an indecent, obscene or immoral picture.

LOCAL REGULATIONS

Naturally following the report of existing laws is the digest of the findings of the sub-committee appointed to investigate and report on Local Regulations.

After careful investigation the findings are as follows:

There should be passed in every community two ordinances—one an ordinance relative to motion pictures advertising and the other an ordinance relative to the regulation of motion picture films. To facilitate the work of passing these ordinances, two suggested ordinances are hereby submitted.

Suggested Ordinance No. 1

The committee recognizes the power now vested in each local community to regulate amusements. It would strengthen this power by recommending that each community pass an ordinance governing display advertising in front of places of amusement.

Section 1. That it shall be the duty of the proprietor, operator or manager of every motion picture theatre or other place of amusement in

..... (city, town or village) open to the public in which motion pictures are exhibited, whenever advertising matter on a billboard placed in front of the building or other structure in which motion pictures are exhibited or other public places, the title to the pictures or other description shall be full enough to describe in general terms the nature and character of the picture or pictures to be shown. No such proprietor, operator or manager shall place, maintain or allow to be placed or maintained in front or in connection with any such theatre or other place of public amusement any sign, picture or other announcement which in any manner misstates or misrepresents the pictures or other amusements which are being shown in said place, or which announces a picture or other form of amusement or entertainments which is not at the time such announcement is displayed being shown and exhibited in said theatre or other place of amusement. This shall not apply to posters which advertise advance exhibitions.

Section 2. No proprietor, operator or manager of a motion picture theatre or other public place in ..... (city, town or village) shall display in front of, or in connection with such place of amusement a sign, picture, billboard or poster or other advertisement which represents any matter of immoral or indecent nature, or which depicts offensive acts or violence or of human torture or is calculated to incite riot or acts contrary to the public peace; and be it furthermore enacted, that no such picture, sign, billboard or poster shall exhibit for public display pictures of the female form in the nude or clad in one-piece bathing suits, tights or other lascivious and suggestive costumes.

Section 3. Any person being such proprietor, agent or manager of any theatre or other place of amusement in ..... (city, town or village) open to the public, failing to comply with the provisions of this ordinance shall be guilty of a misdemeanor.

Ordinance No. 2

AN ORDINANCE OF ..... (City, Town or Village) RELATING TO MOTION PICTURES AND PROVIDING FOR A SYSTEM OF REGULATION THEREOF

Be it ordained by the ..... (city, town or village) as follows:

Section 1. Definitions.—Unless it appears from the context that a different meaning is intended, the following words as used shall have the following meanings attached to them by this section:

The word "picture" shall mean and include any picture or series of pictures of the classes and kinds commonly shown by means of mutoscope,

cinematographs or automatic or moving picture devices.

The words "to show" shall mean to show, display, produce or exhibit.

The word "person" shall mean any person, firm or corporation, whether acting as principal or agent.

Section 2. It shall be the duty of the licensing official, mayor, police authority, common council or commissioner of public safety to discover and prevent violations of this ordinance.

Section 3. At a reasonable time before any picture not approved by the National Board of Review of Motion Pictures and which does not bear the official copyright insignia of the National Board is publicly exhibited in ..... (city, town or village) the person whose intent it is to rent or exhibit the same shall file with the licensing official, mayor, police authority, common council or commissioner of public safety, a written notice of their intention so to do. Such notice shall state:

(a) The name of the picture.
(b) The name of the manufacturer thereof.
(c) The general character of the picture.
(d) Time and place at which it is intended first to display the picture.
(e) The name and address of persons filing the notice to which requests, demands and notices provided for in this ordinance may be served.

The statement shall be signed by the person in immediate control of the place from which the picture is to be leased, rented, sold or exhibited.

Section 4. The licensing official, mayor, police authority, common council or commissioner of public safety is hereby empowered and authorized to demand that any picture which has not been passed by the National Board of Review and which is proposed to be shown in ..... (city, town or village) be shown to the licensing official, mayor, police authority, common council or commissioner of public safety before the public exhibition thereof. Such demand shall be made in writing and shall be addressed to the person signing the notice herein required at the address given in such notice and may be served upon him personally or by leaving such a demand in a conspicuous place at such address. The person acting as principal or agent for the picture shall provide free of charge the place and proper facilities by which the picture is to be shown to the licensing official, mayor, etc., and shall so show it.

Section 5. And be it further enacted that the licensing official, mayor, police authority, common council or commissioner of public safety in ..... (city, town or village) is hereby given authority to pro-

hibit the exhibition of such advertising as is designated in Ordinance No. 1, and said official is hereby given authority to enforce Ordinance No. 1.

Section 6. The licensing official, mayor, etc., is hereby empowered and authorized and it shall be his duty to prohibit, or to prohibit in part any picture which he finds to be obscene, indecent, improper, licentious or immoral, or any picture that would have a harmful influence on the public. Upon making such finding, the official shall immediately notify the person filing the notice of his intention to show such picture of the finding and that the showing of the picture, or such part thereof as may be designated by such official is prohibited.

Pictures for Children

It is also recommended that the present state law governing the attendance of children under sixteen unaccompanied by parent or guardian be amended to permit each locality, through the enactment of local ordinance, to sanction special young people's performances of selected pictures where such performances are arranged under proper local auspices in connection with the Better Film Movement.

Your committee bases the above recommendation on its conviction that the special performances for children and young people are the only permanent solution of a community motion picture problem. In view of the fact that according to reliable statistics a small percentage of audiences attending motion picture theatres consist of young people under sixteen, any form of regulation based upon such a minor percentage of the total audience invades the rights of the majority.

Your committee has carried on an investigation in various directions, the result of which leads them to the definite conviction that the attendance of young people in the downtown theatres in the various towns and cities is practically negligible, while the attendance of children in the local neighborhood theatres is of more consequence, but would doubtless not exceed ten per cent of the audience, except in a case where pictures are being shown which appeal especially to young people under sixteen. Any form of regulation, therefore, based upon such a minor percentage of the total audience invades the rights of the majority. On the other hand, the special performances for young people would unquestionably draw off from the regular performances where pictures of an ordinary character are shown, the young people customarily attending such exhibitions. It would furnish them with a type of entertainment of an entirely suitable nature and thus the minority of the ordinary audience would be taken care of without interfering with the programs which are designed primarily for adults, the majority.

Your committee believes that an ordinance subjecting pictures such as are described above to the possible interference of the local licensing agency, adds in no way to the present powers of the local license agency, but directs its actions toward the pictures in no other way reviewed. Your committee believes also that such an emphasis will cause the producers to make a special effort to bring the one per cent of unreviewed pictures under the scrutiny of the National Board of Review. Since then to draw the attention of the local licensing agency to the need of watching the one per cent of unreviewed pictures in no way enhances the already established power of the licensing agency, and since it would tend to give the National Board of Review complete oversight over the output of motion picture producers, the ordinance seems to your committee to be in harmony with its basal principle of fostering the National Board of Review and does nothing to increase the already established power of local licensing agencies. It should be remembered that the local licensing agency is in an indirect sense a regulator, as it has the power to revoke the license of offending exhibitors.

NATIONAL BOARD OF REVIEW

History. The National Board of Review of Motion Pictures was established by the Peoples Institute in New York City in 1909. It is still affiliated with the Peoples Institute. The Board reviewed sixty-five per cent of the films circulated in the United States in 1909 and in 1916 its activities had extended to cover ninety-nine per cent of the films produced and circulated here. Its membership, always voluntary, consisted of seven persons in 1909 and had increased to over two hundred persons in 1917. It is self-governing and through its general committee establishes standards and rules of procedure; elects its own officers and members and selects its executive staff. No votes are permitted on any picture by any one even remotely connected with the motion picture industry.

Organization. Its General Committee, which is the governing body, is drawn from persons of training who are identified with various welfare and civic movements. The General Committee also elects an Executive Committee, charged with the details of administration, and a Review Committee which deals directly with the motion picture output.

Finance. The cost of the work of the National Board is met by contributions made through the Peoples Institute, by persons interested in the educational work of the Board; by persons who have become sustaining members; and by charges made against the producers covering the work of review, upon an agreed rate per reel of all films reviewed. Contrary to general understanding the producers have no influence over the Board, for

the reason that those who by this plan review the pictures are not remunerated by the industry. The fees collected are used solely for the support of the office force, no member of which is on the Board.

Methods. Pictures are shown in advance of publicity to the Review Committee. This committee is divided for convenience into several divisions, each such division meeting one day each week. Pictures after review are passed with or without elimination. Any picture can be appealed by a member of the Review committee, by the Secretary of by the Producer, to the General Committee, which thereupon makes final review and gives final decisions. After final action is taken the owner is notified and agrees to make the changes suggested. A bulletin of information concerning action on all pictures is issued each week to national correspondents, including municipal officials.

Standards

From a list of nearly forty standards which guide the Review and General Committees, and therefore the Board itself, in its judgment of the quality and suitableness of motion pictures for exhibition in the United States, we draw attention to the following:

"The Board will not pass pictures which would tend to influence public opinion on questions of fact in any matter that is before the courts for adjudication."

"No comedy which in effect holds up to ridicule any religious sect, religion generally or the popular characteristics of any race of people should be shown."

"Infidelity to marriage ties must not be treated improperly or suggestively as a comedy theme. All loose suggestive comedy 'business' between the sexes should be removed. Suggestive dress or actions which provoke sensuality of thought are also objectionable."

"The National Board will not permit the rough handling of women and children, the aged and infirm, or cruelty to animals."

"The National Board holds that respect be shown for the law in action and thought."

"Crimes of violence, Theft, Fraud, Forgery, Burglary and Robbery. No suggestively instructive or ingenious methods may be exploited."

"Those scenes which are ardent beyond the strict requirements of the dramatic situation have been curtailed by the National Board."

"The National Board recognizes the influence of the display of undergarments and the partial display of the person and judges critically all such incidents. The producers sometimes assume that true art calls for the particular costume chosen, but if the National Board thinks that the art is

put in to carry the immorality over, or that the immorality is more effective than the art, it considers that it is its duty to condemn the picture."

"The National Board as a reflector of public opinion takes the position that it should not and will not pass any pictures containing incidentally or extensively the female nude."

A national agency working every day for the betterment of motion picture exhibitions and acting under such principles as those ennunciated above is bound to continuously raise the standards of performance. It must be admitted by any person who has given much thought to the subject, that a tremendous advance in good taste has been made during the last three or four years. It seems likely to your committee that the activity of the National Board of Review has been a large factor in this process.

Your committee believes that a wider use of the facilities and service of the National Board, and a more general co-operation on the part of municipal officials with the National Board and with local exhibitors, will in fact meet all the necessities of the so-called moving picture problem, and will be more effective and far-reaching in ultimate results than any other official method. A policy of this sort, enforced when necessary through exercise of the police and license power will be adequate, we believe, to meet any situation that may arise.

We advise that producers be required to resume the practice of displaying the shield of the National Board on all films passed by the Board.

As a further means of increasing the influence of the National Board we would advise an extension of the Advisory Committee membership, and the adoption of some plan which may secure greater activity on the part of the members of the Advisory Committee.

We advise that the National Board of Review by some practical means establish official connections with municipal administrations throughput the state; and establish also representative advisory boards or committees in all the states and larger centers of population.

STATE CENSORSHIP

The sub-committee to investigate state censorship made a comprehensive and very able report. The report is too long to be included in this report, but on account of its value, it is added to this report in the form of an appendix. The committee gave substantial reasons for their conclusions, as follows:

Legalized censorship of the film is a dangerous departure in a free country. It is no less dangerous than a censorship of the press or the stage for it places a ban upon ideas. The indecent, improper and immoral film can be eradicated by the same methods as are used against indecent, im-

proper and immoral books or plays. It may make the passing of films a matter of political influence and result in consequent abuses of power. It does not reflect public opinion but merely the personal views of the censors themselves. The experiment which has been tried in other states does not warrant New York making such a radical departure from the principles upon which our Government is founded. Nor does there appear to be the necessity for that departure. Great as has been the improvement of the film in recent years, it would be greater and more rapid were the menace of censorship eliminated and the art allowed to develop along its natural lines, governed by common sense and the good taste of the American people.

GENERAL SUMMARY

Your committee finds that owing to the nature of the motion picture art, state censorship in any form is undesirable, and that the only promising method of regulating the production and exhibition of motion pictures so that the public shall receive the greatest possible good from this art, is now in operation in the form of the National Board of Review.

Your committee believes that because art has always been attended by generous self-sacrificing patrons and critics, the National Board of Review will never cease to function and function wisely in its attempt to advance the interests of all concerned.

The committee believes that the two suggestions concerning ordinances will give all the added power to the Board of Review desirable at this time, and urges that the Mayors of the State recommend such local legislation as will carry these ideas into effect. The only difficult situation is concerning the proper handling of the one per cent of the films which does not come under the supervision of the National Board of Review, and the mayors should consider which would be the greater evil: to leave this one per cent utterly unreviewed and so liable to do continual harm, or to throw the supervision of this one per cent over to the licensing agencies of the communities of the state. The final action of a licensing agent is, of course, in the form of punishment for a misdemeanor, but the fact that the licensing agencies may be given power to review this one per cent of films with the understanding that if undesirable, the licensing agencies may render proper punishment, is in itself an indirect type of regulation, and the mayors must decide whether this indirect type is a greater danger than to leave the one per cent of questionable output utterly unreviewed.

Your committee believes the lesson of these two evils is to give the licensing agencies the right to act as in the proposed ordinances. It will be seen that the bulk of the work reported in these pages is a review of

matters of fact; that the only debatable questions are the superiority of the National Board of Review over state censorship and the method of bringing under proper surveillance the one per cent of unreviewed films, and we believe wise recommendations have been made concerning both these questions.

REPORT OF SUB-COMMITTEE ON STATE CENSORSHIP

To the Special Committee Appointed by the State Conference of Mayors on the Regulation of Motion Pictures:

Your sub-committee, appointed to inquire into and report upon state censorship of motion picture films desires to submit the following report:

It is unalterably opposed to any form of state censorship of films and for the following reasons:

The Basic Principle of Censorship is Un-American

Free thought and its free expression in speech or through the medium of the press, the pulpit, the forum, the stage and the screen is a right guaranteed to every American citizen by the Federal Constitution. Our fathers fled the Old World to gain freedom for the expression of their religious and political beliefs. Free speech, a free press and a free stage have become and must ever remain an inviolable part of the American ideal.

So firmly is that principle grounded in our national life that not only the Federal Constitution, but also every State Constitution guarantees it, and every citizen is granted the right of free speech in print, being held responsible only for the abuse of that right. The screen has attained a dignity akin to that of the stage and to the printed page: it should be entitled to the same privileges and liable to the same penalties. If it sins it should be punished in the same way as the stage or the press is punished and to neither a greater nor a lesser extent.

Film censorship inflicts punishment before the sin is committed and it is a blow at civil liberty quite as deadly as censorship of the press, for the film is not only a medium of entertainment but also a news and educational medium, quite as universal as the magazine or the newspaper. Should America surrender her free theatre, which means a free screen, she might as well give up her free press, her free speech and her freedom of assemblage. The one might well lead to the other. Legislation tending towards any such restriction is thoroughly pernicious and in the end will destroy personal responsibility, distort the public mind and hamper its development and stunt the vital growth of education.

Censorship of speech, of press, pulpit or stage has ever been the distinguishing mark of despotism. Freedom in the expression of thought is the cornerstone of democracy.

Censorship is a Backward Step in the Progress of Civilization

The greatness of any country is measured by the greatness of its art and its literature. To quote the Earl of Lytton, "The social civilization of a people is always and infallibly indicated by the intellectual character of its popular amusements."

To restrict the free development and expression of the newest of arts through censorship is a step backward towards the dark ages. Censorship burned the Bible; censorship kept from the French people for a whole generation all knowledge of Newton's discovery of terrestial magnetism. Leonardo da Vinci's "Mona Lisa" was pronounced by a professor of the University of London to be "one of the most actively evil pictures ever painted." When Guttenberg invented the printing press prototypes of the present proponents of censorship succeeded in suppressing the printed word for many years. The motion pictures is a process of recording thought without the use of printer's ink and is perhaps as great an advance over printing as Guttenberg's invention was over the quill pen. A censorship of the one is no less dangerous than a censorship of the other.

Censorship is Fundamentally Wrong

It has been aptly said that motion picture censorship is the latest device for making us moral by act of legislature and is a futile effort to correct Nature which gave us five senses and but one conscience. Certainly it is an assumption by political authority, not of the regulation of conduct, but of the regulation of thought.

Is it right or politic to select any three, any ten or any hundred men and women, however pure, however wise, however blessed with genius and endow them with the power to set the moral standards of 12,000,000 people? If so, would that standard be the same today as tomorrow? Would it be the same in one locality as another? It would not, should not be the same, for that which may be injurious to the public good in one locality or at one time may be harmless in another place or at another day. Will the Legislature of the State of New York in its wisdom define what is objectionable, what is contrary to the public weal, in a film? We know that it will not. Why then should that definition be left to others? Why should another body of citizens, of no greater intelligence or aesthetic perception, be given the power to enforce its opinion upon the rest of the people?

We possess the right to select our religious, our political beliefs, our newspapers, books, operas and plays, but a film censorship law would take from us the right to select our motion pictures and permit us to see only those which appealed to the censors.

Few impulses equal the passion to impose our own views upon our neighbors, to regulate their morals in conformity with our own. Censorship results from the determination of the few to impose their views upon the many. While it is true that liberty of any sort, even freedom of speech, is liable to abuse, there are safeguards against this, and he who is guilty of such abuse must be held responsible. It is quite another matter to try to prevent the possibility of such abuse beforehand by surrendering both freedom and responsibility to a legalized board, however constituted.

Censorship Will Ever Remain Unsatisfactory

Censorship is bound to be unsatisfactory until that time when all people observe life through the same glasses. One man is shocked at what another considers beautiful. What was indecent yesterday may be decent today, or vice versa. Immorality, indecency are general terms; they cannot be defined with geometrical certainty. They vary with environment. They may be matters of latitude and longitude. Pictures of bathing girls excite no comment at seaside resorts; they may not be viewed with the same indifference in the prairie states. The Eskimo woman warms the half frozen feet of her husband upon her naked body in a manner to shock her white sister, and what is wifely devotion in Etah is gross indecency in Utah.

State Censorship is bound to be unsatisfactory also for the reason that there can be no exact limitations to its scope. There can be no point beyond which it may not be carried nor can there be a uniformity of standards among the states permitting it.

Given a censorship of films in the forty-five states of the union and we would have the amazing and impossible situation of forty-five different kinds of morality. That which is decent and moral in New York City might be indecent and immoral in Hoboken; that which is contrary to the public good in Kansas City, Missouri, might well be in complete accord with the civil welfare of Kansas City, Kansas, depending wholly upon the rulings of local boards. Could any art, any industry live under such condition. Inhibitions, restrictions, conflicts of such a nature would have murdered literature or painting, or the drama generations ago. Can an art as new as the motion picture live under them?

A proposal of State Censorship implies that the moot question of what is decent and what is indecent shall be left not to public opinion, but to the judgment of a commission of three or five or some other number of political appointees. Will there be anything sacrasant about such a board of censors? No. They can be no more than a body of non-expert guardians of public morals; a sore and a needless irritation to the public.

Censorship is More Than Apt to be Swayed by Politics

The motion picture reaches more people and influences more profoundly, their thoughts and ideals, than perhaps any other agency. It is a potent educational force and one of the most efficient mediums for the expression of thought. To pass over its control to a politically appointed board is a step fraught with danger. Such boards are bound to respond to that force which gave them being.

It is claimed that political influence, engendered by a considerable negro vote in Southern Ohio, prevented the showing of "The Birth of a Nation" in that state. In Pennsylvania, where the negro vote is not a factor on election day, the censors passed the picture. In Ohio and Pennsylvania the censorship boards eleminated from the news films all pictures of the recent coal strike. Labor leaders feel that this was a blow at them and that it was struck by the mine owners who were able to exert the political influence necessary to bring about the elimination of the pictures.

Charles E. Hughes, in 1916, denounced the censorship of films as un-American and intolerable. His words were printed in the newspapers of Kansas; nevertheless, the censors of that state forbade the quotation to be shown on the screen, thus proving that mere vanity may sway the judgment of super-moralists. The police censors of Chicago eliminated the picture of a policeman borrowing peanuts from a stand, alleging as reason that it tended to lessen public respect for the guardians of the law. At the same time, as a later exposure revealed, wholesale grafting by the police was under way.

Censorship Would Retard the Development of the Motion Picture

The motion picture is a new art and it should enjoy the same freedom of expression as the other arts. What would our liteurature, our sculpture, our painting be today if every book, before publication, had been submitted to a censor with absolute powers of approval, rejection and elimination? Or if only such statues and canvases were permitted to live in our galleries as had pleased a politically appointed board from the rural districts? What kind of a sermon would even our most gifted divines prepare if they realized that it was to be read and censored by a non-religious board with absolute power of rejection or modification before it could be delivered from the pulpit? Censorship is fatal to the growth and development of any art.

Even the teaching of history by the medium of the screen could well come under the ban of a board of censors for there is no vital period in history that may not arouse the prejudice of some one today. Then, too, history is immoral if measured by the rulings of censorship, for is it not

replete with crimes of violence, with instances of vulgarity, indecency and sin? "Joan the Woman," a great historical film, reverently treated, has never passed the Canadian censors.

Censorship of the Film is Class Legislation,

It invades one field of artistic expression and leaves the others free. Many stories have been widely published in magazines, in newspapers, in book form, then have been dramatized for the stage. By what right may the motion picture producer be penalized for attempting to translate it to the screen? Is not the expression of thought by the medium of the film entitled to the same protection under the law as its expression in print or upon the stage?

Lazy thinkers are prone to attribute all evils to the motion picture. Years ago it was the dime novel which destroyed the morality and taught our young idea how to shoot. Later cigarette smoking was reputed to be rapidly destroying our young manhood. Only a few years ago there was a demand for a censorship of the colored supplements of the Sunday papers. Wisconsin once considered placing a tape measure in the hands of an official who was to see that "no actress or other female person shall appear on the stage unless properly covered by skirts which shall extend at least four inches below the knees."

The record of our boys in the Argonne, at St. Mihiel and before the Hindenburg Line should have proved, this much at least, that neither the uncensored film, the penny dreadful, the baneful cigarette, the irreverent funny sheet nor the short skirt have entirely wrecked their manhood and reduced them to moral and physical weaklings.

Censorship Cannot Usurp the Functions or Exercise the Duties of Motherhood

The great argument used by the advocates of censorship is that we must protect the child, and to accomplish that desirable end it is proposed to reduce the intellectual standards of a great and potential art to the level of puerility. It is quite as impossible to bring the motion picture down to the level of the child as to bring literature, painting, sculpture and the drama down to a ten-year old level.

Before a mother allows her child to read a book she may first ascertain if it is a proper book for the child to read. Before she takes him to a dramatic performance she may assure herself that it is a proper play for him to attend. Not all books nor plays are suitable for the infant mind; nevertheless, we could not tolerate the repression or destruction of all that appeals to maturity. Rather than chop the motion picture down to the dimensions of the nursery and the kindergarten let us point the duty of

mothers to ascertain the nature of the film entertainment her child attends, and turn our thoughts to some other method than censorship.

The Public is the Best Censor

The only censorship tolerable in a free and enlightened country, whether of the press, the pulpit, the platform, the stage or the film, is the censorship of the people. That censorship, as exercised by the ten million people who daily attend our motion picture theatres, has proven sane and efficient. Pictures have shown a marked and steady improvement in tone and character during the most critical period of their growth and that improvement seems bound to continue since the great majority of producers are opposed to suggestiveness, obscenity and salaciousness in any form. By the very nature of the business of motion pictures, meretriciousness and indecency defeat themselves.

The penal code of our cities and states are sufficiently broad, if invoked and enforced, amply to protect the citizens, young and old, against anything on the screen which in the opinion of properly constituted authorities is debasing or unclean. Not until the administration of the criminal law has failed and our courts have proven themselves incapable of coping with infractions thereof, should censorship be seriously considered.

The Application of Censorship Results in Absurdities

A study of censorship elimination show the absurdities of the system. Carmen was rejected in three states for three different reasons. Apropos of this, Channing Pollock, in an article on censorship, wrote as follows:

"Considering that it is forty years since first she mouthed her mad love to the music of Bizet, Carmen might have expected the deference due old age. Beautifully filmed, and beautifully acted by Geraldine Farrar, she came as a bolt from the blue to shocked and surprised 'boards' in Ohio, Pennsylvania and California. Her ancient kiss, that inspired the first big press 'story,' was ordered cut to five feet. 'Just for love, a little kiss,' warbled the Buckeyes, and nothing more than a yard and two-thirds of affection came within that allowance. 'All love scenes showing embraces between males and females' were ordered measured and trimmed, leaving the cigarette maker to give her life for a purely paternal peck from the bashful bull-fighter, Escamillo."

The writer declares, however, that Carmen was not permitted to give her life in Ohio, or in California, since a local board objected to killing of a woman by a man, although there was no objection to the killing of men by women, doubtless because, as he puts it, "girls will be girls."

In Ohio every picture of a woman smoking must be eliminated, which, of course, made the lot of the Spanish Carmen even more difficult.

A certain melodrama depicted the execution of plans for an assassination in an isolated house, and showed the villain cutting the telephone wires in furtherance of his plans. No objection was made to the assassination, but the picture was censored because it tended to inspire small boys to tamper with wires.

Pennsylvania prohibited the showing of a farcical scene in which a man burns a letter from his wife. To tear up the letter, it was explained, would have been permissible, but burning showed contempt of the marital relation. In Pennsylvania no scene may be shown of a mother making baby clothes, the explanation being that children are taught that babies are brought by the stork. When it was argued that even in that event children would of necessity need clothing, the censors refused to change their ruling. Any suggestion of approaching maternity is barred no doubt upon the theory that Nature is too immoral for representation on the screen. The rulings of every state board are replete with absurdities quite in keeping with the examples above cited.

It is the aim of censorship to bar evil scenes from the screen and without evil good goes unobserved. A rigid adherence to the rulings of the existing state boards would prevent the illustration of so elementary a lesson in morals as this, viz.: "The wages of sin is death," for sin may not be filmed.

CONCLUSION

Legalized censorship of the film is a dangerous departure in a free country. It is no less dangerous than a censorship of the press or the stage for it places a ban upon ideas. The indecent, improper and immoral film can be eradicated by the same methods as are used against indecent, improper and immoral books or plays. It may make the passing of films a matter of political influence and result in consequent abuses of power. It does not reflect public opinion but merely the personal views of the censors themselves. The experiment which has been tried in other states does not warrant New York making such a radical departure from the principles upon which our Government is founded. Nor does there appear to be the necessity for that departure. Great as has been the improvement of the film in recent years, it would be greater and more rapid were the menace of censorship eliminated and the art allowed to develop along its natural lines, governed by common sense and the good taste of the American people.

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